

**REMARKS**

**INTRODUCTION**

In accordance with the foregoing, no claims have been canceled, claims 1, 2, 9, 10, 12-16, 18 and 19 have been amended, and no claims have been added. No new matter is being presented, and approval and entry are respectfully requested.

Claims 1-19 are pending and under consideration. Reconsideration is respectfully requested.

**ENTRY OF AMENDMENT UNDER 37 C.F.R. §1.116:**

Applicants request entry of this Rule 116 Amendment and Request for Reconsideration because the amendments were not earlier presented because the Applicants believed in good faith that the cited prior art did not disclose the present invention as previously claimed.

The Manual of Patent Examining Procedures sets forth in §714.12 that "[a]ny amendment that would place the case either in condition for allowance or in better form for appeal may be entered." (Underlining added for emphasis) Moreover, §714.13 sets forth that "[t]he Proposed Amendment should be given sufficient consideration to determine whether the claims are in condition for allowance and/or whether the issues on appeal are simplified." The Manual of Patent Examining Procedures further articulates that the reason for any non entry should be explained expressly in the Advisory Action.

**REJECTION UNDER 35 U.S.C. §102 OF CLAIMS 1-4, 6-13, AND 16-19**

At page 3 of the Office Action, claims 1-4, 6-13, and 16-19 were rejected under 35 U.S.C. §102(e) in view of U.S. Patent Publication No. 2001/0018672 by Petters et al. ("Petters"). Independent claims 1, 12, 13, 16, 18 and 19 have been amended for clarification. However, as Petters may still relate to the claims, the rejection is traversed and reconsideration is respectfully requested for at least the following reasons.

Claim 1 recites, inter alia:

dynamically and automatically, by a computer, pricing servicing of the events by the third party responsive to an electronic entity

event pricing plan where the pricing is based on a collection of the exchange transactions where the collection of the exchange transactions is not limited to a total of goods/services.

Claim 12 recites, inter alia:

dynamically and automatically, by a computer, pricing servicing of the electronic exchange events responsive to an electronic exchange event pricing plan where the pricing is based on a collection of the exchange transactions where the collection of the exchange transactions is not limited to a total of goods/services.

Claim 13 recites, inter alia:

dynamically and automatically, by a computer, pricing servicing of electronic exchange events responsive to an electronic exchange event pricing plan where the pricing is based on a collection of the exchange events where the collection of the exchange events is not limited to a total of goods/services.

Claim 16 recites, inter alia:

a pricing mechanism dynamically pricing servicing of the electronic exchange events responsive to an electronic exchange event pricing plan where the pricing mechanism comprises a function pricing servicing of the electronic exchange events based on a collection of the exchange events where the collection of the exchange events is not limited to a total of goods/services.

Claim 18 recites:

A computer readable storage controlling a computer by dynamically and automatically pricing servicing of electronic exchange events responsive to an electronic exchange event pricing plan where the pricing is based on a collection of the exchange events where the collection of the exchange events is not limited to a total of goods/services .

Claim 19 recites, inter alia:

dynamically and automatically, by a computer, pricing servicing of the events responsive to an electronic entity event pricing plan where the pricing is based on a collection of the exchange transactions where the collection of the exchange events is not limited to a total of goods/services.

As noted earlier in prosecution, Petters discusses, in the context of facilitating Internet sales, the use of a “scrubbing agent”. In essence, the scrubbing agent functions as a form of an escrow agent. The scrubbing agent verifies goods to be sold are as specified and that sales are made in accordance with any applicable sales conditions. *Petters, abstract.*

Petters discloses the scrubbing agent marking up a seller's selling price for each transaction. That transaction may be based on a percentage of the total inventory being sold.

*Petters*, paragraphs 103-104. Therefore, in contrast to the above-recited features, *Petters* discloses pricing selling of goods based on a total inventory of goods.

The Applicants respectfully submit that since *Petters* fails to teach or suggest all of the features of claim 1, 12, 13, 16, 18 and 19, these claims are allowable over *Petters*. Thus, withdrawal of the 102 rejection is respectfully requested.

Regarding the rejection of claims 2-4, 6-11 and 17, these claims depend directly or indirectly on one of independent claims 1 or 16, and are therefore believed to be allowable for at least the reasons noted above.

#### REJECTION UNDER 35 U.S.C. §103 OF CLAIMS 5 AND 15

At page 6 of the Office Action, claims 5 and 15 were rejected under 35 U.S.C. §103(a) as being unpatentable over *Petters* in view of U.S. Patent No. 5,987,429 issued to Maritzen et al. ("Maritzen"). Independent claim 15 has been amended for clarification. However, as the references may still relate to claim 15, and with respect to claim 5, the rejection is traversed and reconsideration is respectfully requested for at least the following reasons.

Claim 5 depends indirectly from independent claim 1. The rejection relies on the above rejection of independent claim 1. However, as discussed above, *Petters* fails to teach or suggest all of the features of independent claim 1. The Applicants respectfully submit that Maritzen fails to make up for this deficiency.

Claim 15 recites, *inter alia*:

dynamically and automatically, by a computer, pricing servicing of the electronic exchange transactions with detail and summary pricing using an electronic exchange event pricing plan responsive to relationships among buyers and sellers and comprising negotiated customer specific rates and where the dynamic pricing plan uses a decision network having rule based functions pricing the transactions, pricing across the transactions, pricing across the goods/services, pricing with charge limitations and pricing non-transactions using conditional pricing decisions and pricing calculation algorithms comprising single unit, double unit, taper discount, tier, tier discount, percent, flat, charge, minimum, maximum, accumulation, threshold, multi-unit and taper charges where the pricing is based on a collection of the exchange transactions where the collection of the exchange transactions is not limited to a total of goods/services.

As discussed above and in contrast to the above-recited feature, Petters discloses pricing selling of goods based on a total inventory of goods. The Applicants respectfully submit that Maritzen fails to make up for this deficiency.

The Applicants respectfully submit that at least because neither Petters nor Maritzen, individually or combined, teach or suggest all of the features of claims 5 and 15, the proposed combination of Petters and Maritzen fails to establish a prima facie case of obviousness. Accordingly, claims 5 and 15 are deemed to be allowable over the art of record. Therefore, withdrawal of the §103 rejection is respectfully requested.

#### REJECTION UNDER 35 U.S.C. §103 OF CLAIM 14

At page 7 of the Office Action, claim 14 was rejected under 35 U.S.C. §103(a) as being unpatentable over Petters. Independent claim 14 has been amended for clarification. However, as Petters may still relate to claim 14, the rejection is traversed and reconsideration is respectfully requested for at least the following reasons.

Claim 14 recites, inter alia:

dynamically and automatically, by a computer, pricing servicing of the electronic exchange events responsive to an electronic exchange event pricing plan having transaction pricing, cross product pricing, summary pricing and non-transaction pricing where the pricing is based on a collection of the exchange events where the collection of the exchange events is not limited to a total of goods/services.

As discussed above and in contrast to the above-recited feature, Petters discloses pricing selling of goods based on a total inventory of goods.

The Applicants respectfully submit that at least because Petters fails to teach or suggest all of the features of claim 14, Petters fails to establish a prima facie case of obviousness. Accordingly, claim 14 is deemed to be allowable over the art of record. Therefore, withdrawal of the §103 rejection is respectfully requested.

#### CONCLUSION

In accordance with the foregoing, it is respectfully submitted that all outstanding objections and rejections have been overcome and/or rendered moot. And further, that all pending claims patentably distinguish over the prior art for at least the foregoing reasons. Thus,

there being no further outstanding objections or rejections, the application is submitted as being in condition for allowance which action is earnestly solicited.

If the Examiner has any remaining issues to be addressed, it is believed that prosecution can be expedited by the Examiner contacting the undersigned attorney for a telephone interview to discuss resolution of such issues.

If there are any underpayments or overpayments of fees associated with the filing of this Amendment, please charge and/or credit the same to our Deposit Account No. 19-3935.

Respectfully submitted,

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